

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated November 28, 2007, (hereinafter Office Action) have been considered, and reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

With respect to the § 112 rejection and without acquiescing to the assertions forming the basis of the rejection, each of the independent claims has been amended to remove the objected-to language. Therefore, the § 112 rejection is believed to be moot. Applicant accordingly requests that the rejection be withdrawn.

In an effort to facilitate prosecution and without acquiescing to characterizations of the asserted art, Applicant's claimed subject matter, or to the applications of the asserted art or combinations thereof to Applicant's claimed subject matter, Applicant has amended independent Claims 1, 10, 19, and 28 to indicate that a collection of contact attempts are created by combining saved unanswered call data and at least one received message which both refer to the same caller. Support for these changes may be found in original Claims 2, 11, 20, and 29; therefore, the changes do not introduce new matter. Each of the pending claims is believed to be patentable over the asserted references for the reasons set forth below.

Applicant maintains that U.S. Publication No. 2003/0100295 by Sakai *et al.* (hereinafter "Sakai") and U.S. Patent No. 6,529,737 to Skinner *et al.* (hereinafter "Skinner") alone, or in combination, fail to teach or suggest each of the claimed limitations. As acknowledged at at least page four of the Office Action, Sakai does not teach or suggest constituting contact attempts including both saved messages and unanswered call data, as claimed in each of the independent claims. Instead, Sakai teaches creating separate lists for "missed calls" and "not-read mail" as discussed in the instant Specification at paragraph [0003]. The reliance on Skinner to overcome the absence of such limitations in Sakai is misplaced and insufficient.

For example, Skinner also fails to teach constituting contact attempts including both saved messages and received unanswered call data. Rather, Skinner teaches that in one connection by an originator, two types of contact are attempted – first a phone call and then

a message (column 10, lines 49-60 and the title “. . . within the same telephone call”). Although the phone call and message are both received by a subscriber terminal, there is no teaching or suggestion in Skinner that the two types of contact are combined to form a contact attempt as claimed. Contrary to the assertion that a mobile phone control unit would automatically fetch a name for a caller or the number of the originating phone of an unanswered call, there is no suggestion that Skinner teaches performing such actions. In contrast, Skinner is directed to the scenario when the subscriber terminal cannot perform such functions (insufficient identification of a caller). Also, the cited portions at column 2, line 57-column 3, line 2 and column 4, lines 18-34 merely disclose that an originator may provide a phone number in a message. There is no suggestion that a message is combined with unanswered call data to create a contact attempt. Moreover, Skinner teaches away from the claimed limitations as Skinner teaches only one contact attempt (one telephone call) wherein the call originator uses multiple opportunities to identify themselves (column 5, lines 41-56). Neither Sakai nor Skinner teaches constituting contact attempts including both saved messages and unanswered call data. Without a presentation of correspondence to each of the claimed limitations, the § 103(a) rejection is improper. Applicant accordingly requests that the rejection be withdrawn.

Dependent Claims 3-9, 12-18, 21-27 and 30-37 depend from independent Claims 1, 10, 19 and 28, respectively, and each of these claims also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the above-discussed combination of Sakai and Skinner. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with the independent claims. These dependent claims include all of the limitations of their respective base claims and any intervening claims, and recite additional features which further distinguish these claims from the cited references. “If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.” MPEP §2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d

1596 (Fed. Cir. 1988). Therefore, dependent Claims 3-9, 12-18, 21-27 and 30-37 are also patentable over the combination of Sakai and Skinner.

The further reliance upon the teachings of U.S. Patent No. 6,674,448 to Garahi *et al.* does not attempt to, or overcome, the above-discussed deficiencies in the asserted teachings of Sakai and Skinner. Therefore the traversal is maintained notwithstanding the further reliance on Garahi.

It should be understood that Applicant does not acquiesce to the Office Action's characterization of the asserted art or Applicant's claimed subject matter, nor of the Office Action's application of the asserted art or combinations thereof to Applicant's claimed subject matter. Moreover, Applicant does not acquiesce to the Office Action's statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant's invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Office Action's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (NKO.011.US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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